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October 18, 2013

Via ECF

The Honorable Pamela K. Chen
United States District Court
Eastern District of New York
Room N 631
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Phoenix Beverages, Inc et al. v. Exxon Mobil Corp., et al
Case No. 1:12-CV-03771 (PKC) (JO)

Dear Judge Chen:

This firm is counsel to third party defendant Crown Cork & Seal Company ("Crown Cork"). Crown Cork by counsel signed a waiver of service of summons under which its answer or motion under Rule 12 was due within 60 days after August 27, which date is October 26.

Crown Cork is one of the nine third party defendants in DMJ Associates, LLC v Capasso, et al.; Civil No. 1:97-CV-7285 which have moved for partial summary judgment on the CERCLA 107(a) claim in Count 1 of the Third Amended Third Party Complaint.

I am aware of the motions for pre motion conferences filed by Rexam Beverage Can Company (docket Nos. 81 and 82), Avco Corporation (Docket Nos.97 and 98), and several others. Your Honor issued a Supplemental Order on September 27 to the Court's September 25 order denying said motions regarding proposed Rule 12(b)(6) motions to dismiss. Pursuant to said Supplemental Order the Court extended the time of third party defendants to file an answer or to renew their request for a pre motion conference to 14 days after Judge Irizarry ruled on the identical motion in the related DMJ litigation.

Crown Cork similarly requests a pre motion conference on a proposed motion under Rule 12(b)(6) to dismiss Count 1 of Exxon's third party complaint, which involves claims under CERCLA 107(a). Crown Cork further requests that it be accorded a similar extension of time to answer or renew its motion for a pre motion conference to a date 14 days after Judge Irizarry rules on the pending motion in the DMJ litigation.

Respectfully submitted,
Dickerson & Tomaselli, LLC

By: Charles M. Tomaselli
Charles M. Tomaselli (CT 9719)

cc: Counsel of Record via ECF